

REMARKS

Claims 1-8 remain pending after amendment.

Claim Amendments

Claims 1 and 2 are amended to more clearly describe the claimed invention. Support for the noted amendments resides at least in the Figures. No new matter is added by this amendment.

Applicants' Invention

The present invention provides for an advantageous diaper, which possesses unexpectedly good properties relating to fitability and sustained fit, as evidenced by properties such as fit, ease of putting on a wearer and resistance to sagging (see Table 1 at page 13 of the specification).

The advantages possessed by the claimed diaper results in part from use of a plurality of body-surrounding elastic members that are disposed at side portions of the diaper, wherein the body-surrounding elastic members are not disposed in at least a center portion of a body-surrounding portion wherein an absorbent core exists, and wherein the body-surrounding elastic members are disposed between an outer sheet which constitutes an outermost surface of the diaper and the anti-leakage sheet of the diaper.

By utilizing such a construction, fitability of the diaper is greatly improved, and at the same time bunching of the

absorbent core is avoided, which produces other advantageous effects as discussed in the application.

Rejection of Claims 1, 4 and 6-8 Under 35 USC 103(a)

Claims 1, 4, and 6-8 stand rejected under 35 USC 103(a) as being unpatentable over Watanabe et al '353 in view of Ujimoto et al '489.

This rejection respectfully is traversed.

By way of review, Claim 1 recites the following limitations:

... a pair of cuffs or flaps of a breathable liquid-resistant or liquid-impermeable material provided on lateral sides of the absorbent core, with each cuff or flap having one longitudinal end thereof fixed to the liquid-permeable topsheet over the length of the absorbent core and having the other longitudinal end thereof free...

... the body-surrounding elastic members are each secured in their stretched state at the side portions of said body-surrounding portion to thereby manifest contractibility, with the body-surrounding elastic members being both disposed between and joined to an inner sheet and an outer sheet of an exterior member of said diaper, and the body-surrounding elastic members thereby forming gathers at the side portions of said body-surrounding portion; and... (emphasis added)

Watanabe et al fails to disclose or suggest the presence of the recited cuffs or flaps as required by claim 1, nor is there any teaching or provision in Watanabe for body-surrounding elastic members "both disposed between and joined to an inner sheet and an outer sheet of an exterior member". In applicants' invention

opposing ends of the exterior member extend beyond and are folded over and onto opposite ends of the absorbent core as well as the ends of the cuffs or flaps, limitations not taught by the reference.

Absent such teachings in Watanabe et al, it follows that the same cannot render obvious the invention of claim 1, or any of the rejected claims that depend therefrom.

Further, it is noted that the teachings of Watanabe et al fail to provide any motivation to arrive at a diaper of the present invention, having body-surrounding members "*both disposed between and joined to an inner sheet and an outer sheet of an exterior member*". Absent such motivation in the cited art, it also follows that the teachings of Watanabe et al cannot form a proper basis for rejecting claim 1 or any claims that depend therefrom under the provisions of 35 USC 103(a).

The Ujimoto et al reference is cited to teach the use of cuffs or flaps in a diaper.

Ujimoto et al is directed to disposable absorbent garments. Ujimoto et al discloses the use of elastic flaps 5 which run along the longitudinal length of the diaper adjacent to the absorbent core 3. The elastic flaps 5 are attached along one side to the diaper.

However, Ujimoto et al diaper fails to include applicants' "body surrounding portion" at an intermediate portion of the diaper.

Ujimoto et al also teaches that the absorbent core member 3 terminates at a position short of the ends of the diaper, but the cuffs or flaps 11 extend to the ends of the diaper (see Figure 1).

By contrast, in applicants' diaper, the cuffs or flaps terminate at a position co-extensive with the ends of the absorbent core. Additionally, in applicants' diaper, elastic members extend both across the end of the diaper, as well as laterally from the ends of the absorbent core (applicants' Figure 2A). Claim 1 is amended to more clearly recite this configuration.

The combined teachings of the references fail to disclose or suggest the recited embodiment.

The rejection is thus without basis and should be withdrawn.

Rejection of Claims 2, 3 and 5 Under 35 USC 103(a)

Claims 2 and 3 stand rejected under 35 USC 103(a) as being unpatentable over Watanabe et al '353, further in view of Ujimoto et al '489, and Takabayashi et al '087. Claim 5 stands rejected under 35 USC 103(a) as being unpatentable over Watanabe et al '353 in view of Ujimoto et al '489 and Iskra '050.

These rejections respectfully are traversed.

The basic difference between claim 1 and claim 2 is that claim 2 further provides that the body surrounding elastic members are disposed between an outer sheet and the anti-leakage sheet, and form gathers at the side portions of the diaper.

The deficiencies of Watanabe et al and Ujimoto et al are discussed above.

Again, Ujimoto et al teaches that the absorbent core member 3 terminates at a position short of the ends of the diaper, but the cuffs or flaps 11 extend to the ends of the diaper (see Figure 1).

By contrast, in applicants' diaper, the cuffs or flaps terminate at a position co-extensive with the ends of the absorbent core. Additionally, in applicants' diaper, elastic members extend both across the end of the diaper, as well as laterally from the ends of the absorbent core (applicants' Figure 2A). In applicants' invention opposing ends of the exterior member extend beyond and are folded over and onto opposite ends of the absorbent core as well as the ends of the cuffs or flaps, limitations not taught by the reference. Claim 2 is amended to more clearly recite this configuration.

The cited secondary references of Takabayashi et al and Iskra do not cure the deficiencies of Watanabe et al and Ujimoto et al, and as such their combination with the teachings of Watanabe et al

and Ujimoto et al are incapable of rendering obvious the invention as recited in any of the rejected claims.

Takabayashi et al teaches the formation of gathers at column 7, lines 28-29, with the elastic member being placed between topsheet 2 and covering sheet 9 (column 8, lines 47-55 and Figure 6).

However, given the deficiencies of Watanabe and Ujimoto et al, the additional teachings of Takabayashi et al and Iskra do not result in applicants' invention.

Indeed, no motivation is found in any of the cited art that would allow one of ordinary skill in the art to arrive at the present invention as claimed. Absent such motivation in the cited art the outstanding rejections are not sustainable.

These rejections are thus without basis and should be withdrawn.

In view of the above, the application is believed to be in condition for allowance, and an early indication of same is earnestly solicited.


A check in the amount of \$1020.00 is attached as payment for the requested three month extension of time.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees

required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

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